

Proposed Local Law Number 10 Of 2024

County Of Ulster

A Local Law Amending The Code Of The County Of Ulster, Chapter 205 Food Service, Article II Use Of Disposable Polystyrene Foam, To Include Thermoform Plastic

BE IT ENACTED, by the Legislature of the County of Ulster, as follows:

SECTION 1. § 205-8 of the Code of the County of Ulster, Legislative intent and findings, shall be amended to read as follows:

§ 205-8 Legislative intent and findings.

A. The County of Ulster is dedicated to conserving resources and reducing greenhouse gas (GHG) emissions, waste, litter and pollution. The Ulster County Legislature has actively been considering and implementing laws aimed at protection our environment.

B. The Legislature finds and determines that polystyrene foam and thermoform plastic are common environmental pollutants and nonbiodegradable substances commonly used as food service ware and that there is no meaningful recycling or reuse of polystyrene foam food service ware.

C. The Legislature further finds and determines that the Environmental Protection Agency has found that polystyrene and thermoform are major contributors to greenhouse gas emissions, and widespread use could add 1.3 billion tons of CO₂ to the atmosphere.

D. The Legislature further finds and determines that evidence suggests that polystyrene foam and thermoform plastic can take up to thirty (30) years to break down in landfills, can contaminate the air with raw materials, solvents and other volatile liquids.

E. The Legislature further finds and determines that alternative cost-effective biodegradable, compostable and/or reusable food service ware is readily available. Such alternatives are less toxic and more environmentally friendly than polystyrene foam and thermoform plastic.

F. The Legislature further finds and determines that the use of biodegradable, compostable food, and/or reuseable service ware will reduce the waste stream and reduce waste costs. Therefore, the purpose of this article is to eliminate the use of

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polystyrene foam food service ware by food service establishments within Ulster County.

G. Therefore, the Legislature hereby finds and determines that the prohibition of the use of polystyrene foam and thermoform plastic disposable food service ware in Ulster County is in the best interests of the citizens of Ulster County.

SECTION 2. § 205-9 of the Code of the County of Ulster, Definitions, shall be amended to include an additional definition to be placed in alphabetical order and to read as follows:

THERMOFORM PLASTIC

Any plastic comprised of thermoplastic polymer belonging to the polyolefin family. Thermoform Plastics are generally used to make yogurt containers, ketchup bottles, drinking straws, food crates, microwave safe trays and food storage containers.

SECTION 3. § 205-10 of the Code of the County of Ulster, shall be amended to read as follows:

§ 205-10 Use of disposable polystyrene foam and thermoform plastic food service ware prohibited.

A. No chain food service establishment shall sell or otherwise provide prepared food in any disposable food service ware that contains polystyrene foam or thermoform plastic.

B. No food service establishment shall sell or otherwise provide prepared food in any disposable food service ware that contains polystyrene foam or thermoform plastic.

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C. No County facilities, County-managed concessions, County-sponsored events or County-permitted events shall distribute or utilize disposable food service containers containing expanded polystyrene, thermoform plastic or nonrecyclable plastic.

SECTION 4. § 205-11 of the Code of the County of Ulster, Exemptions, shall be amended to read as follows:

§ 205-11 Exemptions.

A chain food service establishment or food service establishment may seek an exemption from the prohibition under § 205-10 due to a "unique packaging hardship" under Subsection A of this section or a "financial hardship" under Subsection B of this section.

A. The chain food service establishment or food service establishment must demonstrate that no reasonably feasible alternative exists to a specific and necessary polystyrene foam or thermoform plastic disposable food service ware to qualify for a "unique packaging hardship" exemption.

B. The chain food service establishment or food service establishment must demonstrate both of the following to qualify for a "financial hardship" exemption:

(1) A gross income under \$300,000 on their annual income tax filing for the most recent tax year; and

(2) With respect to each specific and necessary polystyrene foam or thermoform plastic disposable food service ware, that there is no feasible alternative that would cost the same or less than the polystyrene foam or thermoform plastic disposable food service ware.

C. The chain food service establishment or food service establishment may submit a written application for an exemption on a form provided by the Department of Health. The Commission of Health or designee ("Commissioner") may require the applicant

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to submit additional information or documentation to make a determination regarding the exemption request. Within 30 days of receiving a completed application and supporting documentation, if any, the Commissioner must either grant or deny the applicant's request for an exemption and must notify the applicant of his or her determination. A request for exemption shall be reviewed on a case-by-case basis, and may be granted in whole or in part, with or without conditions, for a period of up to 12 months. The chain food service establishment or food service establishment must apply for a new exemption period no later than 60 days prior to the expiration of the then current exemption period to preserve a continuous exemption status. Each application shall be reviewed anew and will be based on the most current information available. The determination of the Commissioner shall be final and is not subject to appeal.

SECTION 6. SEVERABILITY.

In the event that any portion of this local law is found to be invalid, such finding will not have any effect on either the remaining portions or applications of this local law or any provisions of the Code of the County of Ulster, which shall remain in full force and effect.

SECTION 7. EFFECTIVE DATE.

This Local Law shall be effective six months subsequent to filing in the Office of the Secretary of State for Chain Food Service Establishments, County facilities, County-managed concessions, County-sponsored events and County-permitted events, and one year subsequent to filing in the Office of the Secretary of State for Food Service Establishments. This article shall apply to all transactions occurring on or after the effective dates referenced above.